

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NEWPORT NEWS DIVISION**

In re:)	
)	CHAPTER 7
DAVID PAUL BUCK)	
A/K/A DAVID P. BUCK)	
)	
AND)	
)	
AMY DENISE BUCK)	
A/K/A AMY D. BUCK)	
DBA WAGS & WHISKERS PET SITTING)	
SERVICE, LLC)	
)	CASE No. 17-51549-SCS
Debtors.)	
_____)	
)	
NEW PENN FINANCIAL, LLC)	
D/B/A SHELLPOINT MORTGAGE)	
SERVICING)	
)	
Movant,)	
v.)	
)	
DAVID PAUL BUCK)	
A/K/A DAVID P. BUCK)	
)	
AND)	
)	
AMY DENISE BUCK)	
A/K/A AMY D. BUCK)	
DBA WAGS & WHISKERS PET SITTING)	
SERVICE, LLC)	
)	
AND)	
)	
CLARA P. SWANSON, TRUSTEE)	
)	FILED PURSUANT TO 11 U.S.C
Defendants.)	SECTION 362

David A. Rosen
Virginia Bar No. 44494
BUONASSISSI, HENNING & LASH
A Professional Corporation
1861 Wiehle Avenue, Suite 300
Reston, Virginia 20190
Phone (703) 796-1341, ext. 110
Fax (703) 796-9383
e-mail: drosen@bhlpc.com
Counsel for Movant

MOTION SEEKING RELIEF FROM STAY

Comes now New Penn Financial, LLC d/b/a Shellpoint Mortgage Servicing (the “Movant”), a secured creditor, by Counsel, and moves this Honorable United States Bankruptcy Court for Relief from the Stay imposed by 11 U.S.C. Section 362(a), and in support thereof, state as follows:

1. That this Motion is filed pursuant to 11 U.S.C. Section 362(d) and Rules 4001 and 9014 of the Bankruptcy Rules, as hereinafter shall more fully appear.
2. That the Movant is a secured creditor of the Debtors, whose claim is based upon a certain Note dated November 14, 2003 in the principal amount of \$108,720.00 and executed by David Paul Buck, a/k/a David P. Buck and Amy Denise Buck, a/k/a Amy D. Buck, dba Wags & Whiskers Pet Sitting Service, LLC, the Debtors herein. The total amount due, including the unpaid principal balance of \$82,285.65 due under said Note as of December 15, 2017, interest of \$4,214.02 at the Note rate, late charges and attorney's fees and costs was approximately \$89,158.10. A copy of an estimated payoff statement is attached hereto, marked as Exhibit A, as is a copy of the said Note, marked as Exhibit B. Repayment of said Note is secured by that certain Deed of Trust dated November 14, 2003 and recorded on November 17, 2003 as Instrument # LR030036199 among the land records of York County, Virginia, by which the subject property was conveyed to Allen C. Tanner, Jr., Trustee(s), which property has the address of 103 Kelsey Road, Williamsburg, VA 23185 and which is more particularly described in the Deed of Trust as:

All that certain lot, piece or parcel of land, lying and being in, and situate in Bruton Magisterial District, York County, Virginia, and known and designated as Lot 19 on that certain blueprint plat entitled, “GREENSPRINGS, SECTION A”, made April 20, 1959, by McManus Mrock, and McManus, C.L.S., a blueprint copy of said plat being duly of record in the Clerk’s Office of the Circuit

Court of York County, in Plat book 6 on page 44. Reference to said plat is herewith made for a complete description of said property.

A copy of said Deed of Trust and Assignment of Deed of Trust is attached hereto, marked as Exhibit B-1, and expressly made a part hereof.

3. That on November 6, 2017, the United States Bankruptcy Court for the Eastern District of Virginia entered an Order for Relief under 11 U.S.C. Chapter 7 upon a petition filed by David Paul Buck, a/k/a David P. Buck and Amy Denise Buck, a/k/a Amy D. Buck, dba Wags & Whiskers Pet Sitting Service, LLC, Case No. 17-51549-SCS.

4. That the Debtors are in default in repayment of the note and are next due for March 1, 2017 payment with a reinstatement balance of \$9,523.12. A copy of a reinstatement balance is attached hereto as Exhibit C.

5. That by reason of the foregoing, the Movant lacks adequate protection for its security interest and is, and continues to be, irreparably harmed by the continuation of stay of 11 U.S.C. Section 362(a) and that therefore cause exists for the termination thereof.

6. That upon entry of an Order terminating the stay of 11 U.S.C. Section 362(a), the Movant should be free to take such actions with respect to the subject property as are set forth under applicable non-bankruptcy law (i.e. modification, short sale and other loss mitigation options).

New Penn Financial, LLC d/b/a Shellpoint Mortgage Servicing reserved the right to foreclose. Shellpoint Mortgage Servicing services the underlying mortgage loan and note for the property referenced in this Motion for Movant. In the event the automatic stay in this case is modified, this case dismisses, and/or the Debtors obtain a discharge and a foreclosure action is commenced on the mortgaged property, the foreclosure will be conducted in the

name of Movant. Movant, directly or through an agent, has possession of the Note. The Note is either made payable to Movant or has been duly endorsed.

WHEREFORE, the Movant respectfully moves this Honorable United States Bankruptcy Court for entry of an Order (i) granting it, its successors and/or assigns relief from the stay of 11 U.S.C. Sections 362(a) so that the undersigned may proceed to enforce its security interest in the subject property by instituting or continuing foreclosure proceedings against the subject property in state court, (ii) allowing it to take such other actions with respect to the subject property as are set forth under applicable non-bankruptcy law, (iii) allowing the successful purchaser at the foreclosure sale to obtain possession of the subject property, and (iv) that the Order be binding and effective despite any conversion of this bankruptcy case to a case under any other chapter of Title 11 of the United States Code.

NOTICE OF INTENT TO SUBMIT BUSINESS RECORDS

The Movant will submit business records as evidence at any scheduled hearing, as allowed under Fed. R. Bankr. P. 9017 and FRE 902(11). These business records and the declaration of their maintenance as business records are available for inspection by the adverse party upon demand.

NOTICE

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not wish the Court to grant the relief sought in the motion, or if you want the court to consider your views on the motion, then within 14 days from the date of service of this motion, you must file a written response explaining your position with the Court and serve a copy on the movant. Unless a written response is filed and served within this 14-day period, the Court may deem opposition waived, treat the motion as conceded, and issue an order granting the requested relief without further notice or hearing.

If you mail your response to the Court for filing, you must mail it early enough so the Court will receive it on or before the expiration of the 14-day period.

You will be notified separately of the hearing date on the motion.

NEW PENN FINANCIAL, LLC D/B/A
SHELLPOINT MORTGAGE SERVICING

By: /s/David A. Rosen

David A. Rosen

Virginia Bar No. 44494

BUONASSISSI, HENNING & LASH

A Professional Corporation

1861 Wiehle Avenue, Suite 300

Reston, Virginia 20190

Phone (703) 796-1341, ext. 110

Fax (703) 796-9383

E-mail: drosen@bhlpc.com

*Counsel for New Penn Financial, LLC d/b/a
Shellpoint Mortgage Servicing*

CERTIFICATE OF SERVICE

I hereby certify that on the 21st day of December, 2017, a true copy of the foregoing

Motion Seeking Relief from Stay was mailed first-class, postage prepaid, to:

David Paul Buck - Debtor
a/k/a David P. Buck
103 Kelsey Road
Williamsburg, VA 23185

Amy Denise Buck - Joint Debtor
a/k/a Amy D. Buck
dba Wags & Whiskers Pet Sitting Service, LLC
103 Kelsey Road
Williamsburg, VA 23185

And electronically transmitted to:

Marc P. Messier - Counsel for Debtors
Dunnigan & Messier, PC
Barrister Place
11101 Warwick Boulevard
Newport News, VA 23601

Clara P. Swanson - Trustee
708 Thimble Shoals Boulevard, Suite 1
Newport News, VA 23606

Judy A. Robbins - U.S. Trustee
Office of the U.S. Trustee, Region 4-NN
200 Granby Street, Room 625
Norfolk, VA 23510

/s/David A. Rosen
David A. Rosen